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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------------------------|-------------|----------------------|---------------------|------------------|
| 09/822,103 | 03/30/2001 | Cary Lee Bates | RAL920010007US1 | 9182 |
| 25299 | 7590 | 12/12/2003 | EXAMINER | |
| IBM CORPORATION | | | HERNANDEZ, OLGA | |
| PO BOX 12195 | | | ART UNIT | PAPER NUMBER |
| DEPT 9CCA, BLDG 002 | | | | 3661 |
| RESEARCH TRIANGLE PARK, NC 27709 | | | | |

DATE MAILED: 12/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|--|
| Office Action Summary | Application No. | Applicant(s) <i>[Signature]</i> BATES ET AL. |
| | 09/822,103 | |
| Examiner | Art Unit | |
| Olga Hernandez | 3661 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 December 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21,23 and 24 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-21,23 and 24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

| | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 11, 12, 15, 16, 19, 20, 21, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Urahashi (6,009,374), further in view of Takahashi et al (5,832,400)

As per claim 1, Urahashi discloses:

- obtaining positioning data using a GPS (abstract);
- monitoring the automatic transmission to obtain transmission data (column 4, lines 29-33);
- learning whether performance of the automatic transmission is improved utilizing the positioning data and the transmission data (column 11, lines 33-36);
- adjusting a shift threshold for the automatic transmission for the positioning data if it is determined before that the performance of the automatic transmission is improved (columns 10-11).

Urahashi does not teach determining the performance of the transmission when a particular load on the automatic transmission system increases by a particular amount within a particular time. However, Takahashi teaches it in column 2. therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned inventions in order to save a fuel consumption, suppress a vehicular compartment noise and vehicular vibration, purify an exhaust gas of the vehicle and reduce vehicular contaminations, various techniques which automatically adjust operating conditions of either or both of the automotive engine and associated power transmission during the vehicular running have been put into practice.

As per claim 15, Urahashi discloses adjusting the shift threshold each time it is determined that the performance can be improved (column 10, lines 36-60).

As per claim 16, it is inherent to have a storage device to store information to be used for the system.

As per claim 18, Urahashi discloses monitoring the load of the transmission (column 11).

As per claim 19, Urahashi discloses determine the automatic transmission is to shift up or shift down and wherein the transmission adjust the shift level up if the load indicates that the transmission is to shift up and adjust the shift threshold down if the load indicates that the transmission is to shift down (column 10, line 36 through column 11, line 36).

As per claim 20, Urahashi discloses the GPS and transmission integrated (figure 2).

As per claim 21, Urahashi discloses a GPS navigation system (figure 1).

Claims 3, 5-10, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Urahashi (6,009,374) in view of Tsukamoto et al (6,098,005).

As per claims 3, 5, 10, 13 and 13 Urahashi does not teach how to: determine whether a driving condition exists; determine a desires threshold for the automatic transmission base on the driving condition. However, Tsukamoto teaches it (figure 1 and column 5, lines 35-46). Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned inventions in order to have a better independent system.

As per claim 6, it would have been obvious to one of ordinary skill in the art to store information regarding the position of the vehicle and the transmission data in order to work properly and

As per claim 7, it would have been obvious to one of ordinary skill in the art to remove information when it is not used in order to save space and money.

As per claim 8, it would have been obvious to one of ordinary skill in the art to monitor the load on the transmission in order to know what shit mode to select.

As per claim 9, the applicant is claiming basic functions of an automatic transmission.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga Hernandez whose telephone number is (703) 305-0918. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A. Cuchlinski can be reached on (703) 308-3873. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Olga Hernandez
Examiner
Art Unit 3661



WILLIAM A. CUCHLINSKI, JR.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600